

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

IN RE:	§	CASE NO. 07-70058-M
	§	
ANGEL ROJAS and YANETT ROJAS	§	CHAPTER 13
	§	
DEBTORS.	§	
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ANGEL AND YANETT ROJAS	§	
	§	
	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
CITICORP TRUST BANK,	§	
fsb f/k/a TRAVELERS BANK & TRUST;	§	
	§	ADVERSARY NO. 09-07003
	§	
Defendant	§	
	§	
	§	
	§	
	§	

**MOTION FOR EXPEDITED HEARING FOR MOTION OF PLAINTIFFS FOR
TELEPHONIC SCHEDULING CONFERENCE (Docket No. 54)**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Angel and Yanett Rojas, Plaintiffs, and file this Motion for Expedited Hearing on Plaintiffs' Emergency Motion for Telephonic Scheduling Conference ("Emergency Motion for Status Conference"), which seeks that the Court set an emergency status conference prior to March 12, 2010, and as cause would show as follows.

1. Plaintiffs filed their Emergency Motion for Telephonic Scheduling Conference on

Friday, March 5, 2010, seeking that this court set an emergency telephonic status conference in this case. [Docket No. 54]

2. Plaintiffs seek that the court set their emergency motion on an expedited basis and hold the telephonic status conference prior to March 12, 2010.

3. Plaintiffs' Emergency Motion sets out in detail the reasons for which they seek a status conference on an emergency basis. *See* Docket No. 54. The reasons set forth in Docket No. 54 are incorporated herein for all purposes.

4. As set forth at length in the Emergency Motion, Defendant Citicorp Trust Bank, FSB ("Citi") sought, and Plaintiffs agreed to, an informal stay of discovery when Citi sought leave to appeal this Court's order denying Citi's motion to dismiss in this case. Both parties believed that the District Court would issue a ruling on such request in a manner timely enough that if District Court denied the motion for leave to appeal, the parties would be able to complete discovery in the existing scheduling order. (As set forth in the Emergency Motion, the July 24, 2009 scheduling order was agreed to by the parties and entered before the opinion denying the motion to dismiss, and prior to Citi's attempt to appeal that ruling on an interlocutory basis). Alternatively, if the District Court granted the motion for leave to appeal, the parties could file a motion to stay pending appeal at that time.

5. However, the District Court never ruled on Citi's motion for an interlocutory appeal, As such, in January, *both parties jointly* filed a motion to stay pending appeal or in the alternative, set a conference for a scheduling order.

6. The Court denied the motion on March 2, 2010.

7. As set forth in the Emergency Motion, Plaintiffs have vigorously prosecuted this

case, and worked with Citi in good faith concerning Citi's attempted interlocutory appeal in a manner reasonably meant to conserve the resources of both parties.

8. Plaintiffs will be greatly prejudiced if they are forced to file their brief in support of class certification this Friday, March 12, without any class discovery in the case.

9. Plaintiffs request that the court at least set a telephonic status conference in this matter so that Plaintiffs can plead their case for even a short extension of the discovery period in this case.

10. The undersigned counsel certifies that this motion is accurate.

WHEREFORE, Plaintiffs request that the Court grant set their emergency motion for a telephonic status conference on an expedited basis, and set such status conference prior to March 12, 2010.

Dated: March 8, 2010

Respectfully submitted,

ARMSTRONG KELLETT BARTHOLOW P.C.

By: /s/ Karen L. Kellett

Karen L. Kellett

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

I certify that on March 5, 2010, I spoke with Steven Bryant and Roger Cowie, Citi's counsel, concerning Plaintiffs' intent to file their emergency motion for a status conference, and Citi did not agree to the relief being requested.

/s/ Karen L. Kellett

Karen L. Kellett

CERTIFICATE OF SERVICE

I certify that on March 8, 2010, I caused the foregoing to be served on the parties listed below via e-mail.

/s/ Karen L. Kellett

Karen L. Kellett

U.S. TRUSTEE:

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